IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.351 of 2007
Date of Decision: 25.1.2007

National Insurance Company Ltd

Appellant

versus

Des Raj and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE BALDEV SINGH

Present: Shri R.N.Singal, Advocate for the appellant

Jasbir Singh, J. (Oral)

This appeal has been filed against award dated 6.10.2006, passed by the Motor Accident Claims Tribunal, Panchkula (in short, the Tribunal), granting an amount of Rs.3,97,504/- to the respondents claimants, on account of death of Vinod Kumar, in a motor accident, on 4.7.2005.

Counsel for the appellant states that as the truck was being plied contrary to the terms and conditions of the Insurance Policy, the appellant has wrongly been burdened to make payment of the compensation. To strengthen his argument, he states that the respondent No.7 had a valid route permit, to ply the truck within the State of Punjab, the accident had taken place in the State of Haryana, as such, the appellant cannot be held liable to pay compensation. We feel that in view of evidence on record, this argument is liable to be rejected. After analyzing evidence on record, the Tribunal has observed in that regard as under:-

"I do not find force in the argument of learned counsel for respondent No.3. RW2 Neel Kanth Sharma admitted in his

cross-examination that if the driver or operator pays tax and takes receipt from the transport department on the entry into the State, the permit becomes valid for that State also. Moreso, there is no evidence of the respondents to prove that the offending truck was being operated for commercial purposes in the State of Haryana when the accident took place. Unless it is proved that the truck was on commercial route, the question of having permit or violation of the same does not arise. Otherwise also, it is not the case of the respondents that the offending truck had been challenged for violating route permit or non-payment of the required tax before entering the State of Haryana. Thus, finding no merit in the objection of respondent No.3, which is beyond pleadings also, it is hereby rejected. Accordingly, it is held that all the respondents shall be jointly and severally liable for payment of compensation amount awarded to the petitioners."

Appellant has miserably failed to prove that at the relevant time, truck, in question, was being used for a commercial purpose and furthermore no tax was paid when truck entered in the State of Haryana. RW2 Neel Khanth Sharma has specifically stated that if any transport vehicle, having permit within the State of Punjab, when entering the other State, pays tax, the said permit becomes valid for that State also. Furthermore, this plea was not taken in the written statement. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

January 25, 2007 **(Baldev Singh)**
gk **Judge**